6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[EPA-R04-OAR-2014-0220; FRL-9926-34-Region 4]

Air Quality Implementation Plan; Florida; Attainment Plan

for the Hillsborough Area for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the state implementation plan (SIP), submitted by the State of Florida through the Florida Department of Environmental Protection (FL DEP), on June 29, 2012, as amended on June 27, 2013, for the purpose of providing for attainment of the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS) in the Hillsborough 2008 Lead nonattainment area (hereafter referred to as the "Hillsborough Area" or "Area"). The Hillsborough Area is comprised of a portion of Hillsborough County in Florida surrounding EnviroFocus

Technologies, LLC (hereafter referred to as "EnviroFocus"). The attainment plan includes the base year emissions inventory, an analysis of reasonably available control technology (RACT) and reasonably available control measures (RACM), reasonable further progress (RFP) plan, modeling demonstration of lead attainment, and contingency measures for the Hillsborough Area. This action is being taken in accordance with the Clean Air Act (CAA or Act).

DATES: This rule will be effective [insert 30 days after date of publication in the <u>Federal</u> Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2014-0220. All documents in the docket are listed on the www.regulations.gov
Web site. Although listed in the index, some information is not publicly available, i.e.,
Confidential Business Information or other information whose disclosure is restricted by statute.
Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory
Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch, Air (formerly the Air Planning Branch), Pesticides and Toxics
Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection.
The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Zuri Farngalo may be reached by phone at (404) 562-9152 or via electronic mail at farngalo.zuri@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What is the Background for this Action?

On November 12, 2008 (73 FR 66964), EPA revised the Lead NAAQS, lowering the level from 1.5 micrograms per cubic meter ($\mu g/m^3$) to 0.15 $\mu g/m^3$ calculated over a three-month rolling average. EPA established the NAAQS based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to lead emissions.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. On November 22, 2010 (75 FR 71033), EPA promulgated initial air quality designations for the 2008 Lead NAAQS, which became effective on December 31, 2010, based on air quality monitoring data for calendar years 2007 – 2009, where there was sufficient data to support a nonattainment designation.

Designations for all remaining areas were completed on November 22, 2011 (76 FR 72097), which became effective on December 31, 2011, based on air quality monitoring data for calendar years 2008 – 2010. Effective December 31, 2010, the Hillsborough Area was designated as nonattainment for the 2008 Lead NAAQS. This designation triggered a requirement for Florida to submit a SIP revision with a plan for how the Area would attain the 2008 Lead NAAQS, as expeditiously as practicable, but no later than December 31, 2015.

FL DEP submitted its 2008 Lead NAAQS attainment SIP for the Hillsborough Area on June 29, 2012, as amended on June 27, 2013, which included the base year emissions inventory and the attainment demonstration. EPA proposed to approve the Hillsborough Area attainment SIP for the 2008 Lead NAAQS on February 5, 2015. EPA's analysis of the submitted attainment demonstration included a review of the pollutant addressed, emissions inventory requirements, modeling, RACT and RACM requirements, RFP plan, and contingency measures for the Hillsborough Area. Refer to EPA's February 5, 2015, proposed rulemaking for a detailed rationale on EPA's analysis of the Hillsborough area attainment demonstration. *See* 80 FR 6485.

II. What is the Action EPA is Taking?

EPA is taking final action to approve Florida's SIP submittal for the Hillsborough Area, as submitted through FL DEP to EPA on June 29, 2012, as amended on June 27, 2013, for the purpose of demonstrating attainment of the 2008 Lead NAAQS. Florida's lead attainment plan for the Hillsborough Area includes a base year emissions inventory, a modeling demonstration of lead attainment, an analysis of RACM/RACT, a RFP plan, and contingency measures.

EPA has determined that Florida's attainment plan for the 2008 Lead NAAQS for the Hillsborough Area meets the applicable requirements of the CAA. Thus, EPA is taking final action to approve Florida's attainment plan for the Hillsborough Area. EPA's analysis for this final action is discussed in Section IV of EPA's February 5, 2015, proposed rulemaking. *See* 80 FR 6485.

III. Why is EPA Taking This Action?

EPA has determined that all the criteria for Florida's lead attainment plan for the Hillsborough Area have been met. EPA has determined that Florida's June 29, 2012, SIP submission, as amended on June 27, 2013, meets the applicable requirements of the CAA. Specifically, EPA is taking final action to approve Florida's June 29, 2012, SIP submission (as amended on June 27, 2013), which includes the attainment demonstration, base year emissions inventory, RACM/RACT analysis, contingency measures and RFP plan.

IV. EPA's Response to Comments

EPA received one comment on March 9, 2015, from the Center for Biological Diversity and Center for Environmental Health (hereafter referred to as the "Commenter"), in response to EPA's proposed rule to approve the attainment demonstration for the Hillsborough Area for the 2008 Lead NAAQS. A summary of the comment and EPA's response is provided below.

Comment: The Commenter mentions that FDEP fails to account for the significant lead air pollution being generated by leaded aviation fuel ("avgas") from regional airports.

Specifically, the Commenter states that that the "SIP must address the significant contributions of lead air pollution from Hillsborough County's regional aviation airports and include Reasonably Available Control Technology and Reasonably Available Control Measures ("RACT/RACM") to reduce those lead air pollution threats."

Response: EPA does not believe that it is necessary for the attainment demonstration for the Hillsborough Area for the 2008 lead NAAQS to regulate the lead emissions resulting from avgas emitted by aircrafts using regional airports that are located near to the nonattainment area. First, although this is not determinative, there are no airports within the 2008 Lead nonattainment

boundary for the Hillsborough Area to which RACT/RACM could be applied. Second, and more importantly, available information does not indicate that lead emissions from nearby airports or from general aviation aircrafts that use them are impacting receptors in the Hillsborough Area. The nonattainment area is about a 1.14 mile radius circle encompassing the EnviroFocus facility, the source that available information indicates is the sole cause of the lead NAAQS violations in this nonattainment area. Prior to making the determination concerning the appropriate boundary for the nonattainment area, EPA reviewed the technical supporting data¹ and considered all the potential sources of lead in Hillsborough County. EPA determined, based on this information that lead emissions from aircraft combusting avgas and using the regional airports did not cause or contribute to the monitored violations of the 2008 Lead NAAQS. Therefore, the designation of the Hillsborough County area excluded those airports. The closest airport where leaded avgas is used, Tampa Executive Airport is located approximately 4 miles outside the designated nonattainment boundary. Monitoring data from other locations confirm that there is a sharp decrease in lead concentrations as the distance from a lead source increases. The available technical data for the Hillsborough Area continues to support the EPA's prior conclusion that the airport sources of lead are located too distant from the area to contribute significantly to receptors in the designated nonattainment area. Consequently, EPA believes that the control measures described in the proposed rule for the EnviroFocus facility should be adequate to bring this area into attainment with the 2008 Lead NAAQS.

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¹ The analysis of the technical data supporting the boundary can be found in the 2008 Lead Designation Technical Support Document (TSD) for Florida. *See* EPA-HQ-OAR-2009-0443-0316. This document can also be found in EPA-R04-OAR-2014-0220.

V. Final Action

EPA is taking final action to approve Florida's lead attainment plan for the Hillsborough Area. EPA has determined that the SIP meets the applicable requirements of the CAA. Specifically, EPA is taking final action to approve Florida's June 29, 2012, SIP submission (as amended on June 27, 2013), which includes the attainment demonstration, base year emissions inventory, RACM/RACT analysis, contingency measures and RFP plan.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate,
 disproportionate human health or environmental effects, using practicable and legally
 permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
 In addition, the SIP is not approved to apply on any Indian reservation land or in any

other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the <u>Federal Register</u>. A major rule cannot take effect until 60 days after it is published in the <u>Federal Register</u>. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days after date of publication in the <u>Federal Register</u>]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 et seq.

Dated: April 3, 2015. V. Anne Heard,

Acting Regional Administrator,

Region 4.

Therefore, 40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart K--Florida

2. In §52.520, the table in paragraph (e) is amended by adding entries for "2008 Lead Attainment Demonstration for the Hillsborough Area" and "2008 Lead Attainment Demonstration for Hillsborough Area Amendment" at the end of the table to read as follows: §52.520 Identification of plan.

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EPA-Approved Florida Non-Regulatory Provisions

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
**	**	*	*	*
2008 Lead Attainment Demonstration for Hillsborough Area	6/29/2012	[Insert the date of publication in Federal Register]	[Insert Federal Register citation]	
2008 Lead Attainment Demonstration for Hillsborough Area Amendment	6/27/2013	[Insert the date of publication in Federal Register]	[Insert Federal Register citation]	

[FR Doc. 2015-08666 Filed: 4/15/2015 08:45 am; Publication Date: 4/16/2015]